

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

In re:

**LAS UVAS VALLEY DAIRIES,
a New Mexico General Partnership**

Debtor.

No. 17-12356-t11

**MOTION TO EMPLOY FINANCIAL ADVISOR
FOR UNSECURED CREDITORS COMMITTEE**

Comes now the Unsecured Creditors Committee (the “UCC”) constituted herein and moves the Court, for its Order authorizing it to employ Corporate Recovery Associates, LLC (“CRA”) in the Chapter 11 proceeding and related matters and for such other matters on which the UCC may need business and financial advice or representation, and as grounds for this Motion would show the Court:

1. Debtor filed its petition herein on September 15, 2017, and is operating as debtor-in-possession pursuant to Chapter 11 of the Bankruptcy Code.
2. The UCC was constituted by the U. S. Trustee’s Office on November 2, 2017, pursuant to § 1102, and wishes to employ a financial advisor to represent and advise the UCC in this proceeding and related matters.
3. The Committee has selected CRA as its business and financial advisor because the employees of CRA [and in particular Richard J. Feferman, the firm’s Senior Managing Director] possess considerable experience in matters of this nature and are well qualified to represent the Committee in this case. Mr. Feferman has over thirty-seven years’ experience as a financial analyst, specifically in the area of business feasibility, with an emphasis on debtors in bankruptcy since the mid-1990s (more than twenty years). Moreover, Mr. Feferman, and other

CRA employees have extensive experience in the representation of creditors' committees. Mr. Feferman's experience includes the examination of complex financial matters in which cash flow must be determined, projected, and the viability of going concerns assessed. Mr. Feferman is uniquely qualified as one of the few individuals who holds designations as both a Certified Insolvency and Restructuring Advisor (Association of Insolvency and Restructuring Advisors), and a Master Analyst in Financial Forensics (National Association of Certified Valuators and Analysts). Mr. Feferman is a member in good standing of the Association of Insolvency and Restructuring Advisors, and the National Association of Valuators and Analysts. Please see the attached Professional Qualifications of Mr. Feferman and his senior staff attached hereto as **Exhibit "A"**.

4. The Declaration of Richard J. Feferman, CIRA, MAFF, CRA's Senior Managing Director is annexed hereto as **Exhibit "B"** in support of this motion. The professional services CRA will render for the Committee include, but are not limited to an initial investigation of the Debtor's assets, liabilities, finances, business operations, and cash position, with additional financial analysis to be provided at the Committee's specific request including, without limitation, analysis at the plan stage of the case. Additionally, without limitation, CRA will be responsible for monitoring and participating on behalf of the Committee in the disposition of estate assets.

5. While Mr. Feferman has worked closely with counsel on numerous cases to prepare for contested hearings, Mr. Feferman is a financial analyst and not a professional expert witness.

6. To the best of CRA's knowledge, none of the employees of the firm has any conflict with the Debtor, nor any relationship with creditors or any other party in interest

herein, other than those set out in the verified statement of Richard J. Feferman filed herein, which would disqualify CRA from representing the UCC pursuant to § 1103.

7. The UCC desires to employ Corporate Recovery Associates, LLC at the following hourly rates, subject to a **\$275 per hour blended rate** on CRA's final application for payment of fees and costs. Below are CRA's usual and customary rates:

- a. Richard J. Feferman \$650.00/hour
- b. Alan Myers \$235.00 (Non-Lit) \$285 (Lit) / hour
- c. Directors \$425 - \$800 / hour
- d. Associates \$175 - \$500 / hour

8. The UCC desires to reimburse CRA for costs or expenses generally as follows:

Photocopies: \$.20 per page if done in the office, and \$.59 per page for color copies in the office. Outside jobs are billed at actual costs.

Facsimile charges are at \$1.00 per page (outbound only).

Travel: Actual cost of travel, meals and accommodations. IRC rate for travel in consultant's own vehicle. No charge for travel time on modes of transportation that allow for analyst to actually work during travel time (for example while traveling on an airplane non-working travel time will not be billed). Time is billed at the normal rate while traveling via modes that do not provide the opportunity to do work, such as driving a vehicle.

Taxes on services and expenses for which tax is required to be paid are billed at the prevailing rate.

All other costs and expenses are billed at the actual amount.

9. Debtor should be allowed and required to:

- a. Provide an advance of \$15,000 to Corporate Recovery Associates, LLC to be held to protect the firm from non-payment, and to be replenished if CRA, in its discretion, applies any of such retainer to payment of amounts the Debtor should have but did not pay within 30 days of invoice or Order, subject to Court review

as required by law or rules of the Court on appropriate application by counsel for approval of fees, or to have counsel paid by any Trustee herein, as allowed by law, the rules of Court, or any confirmed Plan, after approval of such fees, costs and expenses by the Court on application therefore by CRA;

- b. Make payments for invoices at the rate of 75% of fees and 100% of costs prior to Court approval; and
- c. To provide additional amounts to CRA, on a monthly basis, in order that CRA be, during this proceeding, paid contemporaneously and pro rata with Debtor's counsel.

10. Employment of CRA is in the best interest of the Estate and should be approved.
11. Court approval of this employment should be retroactive to the date of the filing of the UCC's motion to employ CRA.

Respectfully submitted,

MODRALL SPERLING ROEHL HARRIS & SISK, P.A.

By: /s/ Paul M. Fish

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In accordance with NM LBR 9036-1 and Fed. R. Civ. P. 5(b)(2)(D), this certifies that service of the foregoing document was made this 21st day of November, 2017, via the notice transmission facilities of the case management and electronic filing system of the Bankruptcy Court.

By: /s/ Paul M. Fish
Paul M. Fish

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